IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

OP.No. 3050 of 2003(K)

PETITIONER:

P.K.KUNJAPPAN,
PAZHOOR HOUSE, KATHIKUDAM P.O., KORATTY,
TRICHUR DISTRICT.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS, TRIVANDRUM.

3. THE SUPERINTENDENT OF POLICE,
TRICHUR.

4. THE DEPUTY SUPERINTENDENT OF POLICE,
IRINJALAKUDA.

5. THE SUB INSPECTOR OF POLICE,
KORATTY POLICE STATION, KORATTY.

6. CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY ITS SUPERINTENDENT, ERNAKULAM.

R1 TO 5 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R6 BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.5450/03 IN O.P.NO. 3050 OF 2003 K

DISMISSED

7.2.2007 SD/- R. BASANT, JUDGE

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF POSTMORTEM REPORT PREPARED BY THE CIVIL SURGEON THQ HOSPITAL, CHALAKUDY.

EXT.P2 TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE CHIEF MINISTER OF KERALA DT.16.5.02.

EXT.P3 TRUE COPY OF JUDGMENT DT. 10.7.02 IN O.P. 18286/02.

EXT.P4 TRUE COPY OF COVERING LETTER DT.30.7.02 SUBMITTED ON BEHALF OF THE PETITIONER BY HIS COUNSEL TO THE 3RD RESPONDENT.

EXT.P5 TRUE COPY OF LETTER DT.24.9.02 SUBMITTED ON BEHALF OF THE PETITIONER BY HIS COUNSEL TO THE 3RD RESPONDENT.

EXT.P6 TRUE COPY OF NOTICE DT. 4.10.02 ISSUED BY THE SUB INSPECTOR OF POLICE, KORATTY TO THE PETITIONER.

EXT.P7 TRUE COPY OF FIR REGISTERED BY THE SUB INSPECTOR OF POLICE, KORATTY DT. 25.7.05.

/TRUE COPY/

R. BASANT, J.

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O.P.No. 3050 of 2003 K

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Dated this the 6th day of February, 2007

O R D E R

The petitioner's plight is unfortunate. This is the second time he is coming to this Court. His son was celebrating the Christmas eve on 24.12.2001 along with his friends, near the house where the petitioner along with his family resides. Young men were celebrating Christmas. They had decorated the area and were also playing a tape recorder and dancing to the music. They had consumed liquor also. The celebration was running into the night. Some well meaning neighbours requested them to stop. The celebrations were brought to an end.

2. Two of the many boys, who were there, went and peeped into the bedroom of a neighbour. The neighbour saw them. He came out and made a big issue of that. The boys felt remorse. They apologised. The petitioner's son was not one of those who committed the indiscretion. He was trying to pacify all. At a certain point of time he found the reaction of the neighbour to be

disproportionate. He is alleged to have owned the indiscretion wrongly and asked the said neighbour what he would do if he had himself committed the indiscretion. There was an exchange of words. The neighbour - Joy by name - caught hold of the collar of the deceased, son of the petitioner. That exchange of words does not escalate. Hearing the commotion, the wife of the petitioner, i.e. the mother of the deceased, had come to the scene. Indications reveal that when the mother came to the scene, the deceased had withdrawn from the scene and was sitting in a autorikshaw parked nearby. He did not show his face to his mother on that night. After some time, all people disbursed. The son of the petitioner did not return home on that night. Next morning also he was not to be seen. The parents and relatives became panicky. They made enquiries. He could not be traced.

3. It was later realised that a dismembered body of a young person was about to be buried in the local cemetery after postmortem examination. That body was discovered on the Railway track about 5 kms. away from the scene where the boys were celebrating Christmas on the previous night. There was no prompt identification of the dead body. But before the grave

was covered, the cloths of the said dead body was identified to be that of the petitioner's son. The petitioner owned the body and the body was released to the petitioner and buried.

4. The petitioner and his relatives started entertaining doubts. That dead body was found in the next morning i.e. 25.12.2001. Though there was only 5 kms. distance between the house of the petitioner and the place where the body was found, no one had identified the body to be that of the petitioner's son. Various suspicions were aroused. There was no need for the boy to commit suicide. The incident that had occurred on the previous night was, the petitioner felt, too insufficient a provocation for the son of the petitioner to commit suicide. If he really wanted to commit suicide why did he choose to travel 5 kms. to allegedly jump in front of a running train. There was a Railway track near at a distance of 3 kms. The petitioner and his relatives were worried about the conduct of the police. The haste, the unwholly haste, the petitioner and his relative thought of disposing of the body on the afternoon of 25.12.2001 aroused suspicion. The body was carried to the cemetery in a vehicle belonging to the Muringoor Divine Center. The cemetery was locked. The policemen jumped over the

compound wall to get into the cemetery. The people of the locality smelt foul play. They had raised objections. The totality of these circumstances aroused suspicion and complaints were raised.

5. A crime under the caption "unnatural death" under Section 174 Cr.P.C. was registered. The petitioner was not satisfied with the investigation conducted. He came to this Court with O.P.No.18286 of 2002. A learned Single Judge of this Court directed that further investigation be conducted by the Superintendent of Police, Trichur. Without fully appreciating the specific import of the said order, the Superintendent of Police got a further investigation conducted by a subordinate police official, though allegedly under his supervision. He also sailed to the conclusion that it was a case of suicide. The petitioner again came to this Court with the present petition complaining about the inadequate investigation and failure to comply with the earlier order in O.P. 18286 of 2002 strictly. The Superintendent of Police, who was summoned by this Court, realised the error committed. He therefore proceeded to conduct the investigation by himself. After completing the investigation it was reported to the Sub Divisional Magistrate again that it was a case of suicide.

6. The petitioner persists on the objection raised by him. He does not even now get the conscientious satisfaction that it was a case of suicide. He therefore pursues the objections and contends that the investigation deserves to be handed over to the C.B.I.

7. I have heard the learned counsel for the petitioner in detail. The learned Prosecutor has also advanced his arguments in detail. I have been taken through the case diary maintained in the case. The statement filed by the respondents has been considered by me in detail.

8. Having considered all the relevant inputs, the conclusion appears to me inevitable that there is no inadequacy/impropriety in the conduct of the investigation conducted by the Superintendent of Police, Trichur. Every conceivable aspects have been adverted to. The Superintendent of Police has referred to the various circumstances which appear to instill in the mind of the petitioner dissatisfaction about the investigation.

9. It has often been said that a search for adequate cause to commit suicide would be a futile and meaningless one. The urge to preserve life is so primary and pronominal in any living being with the worst of

provocation may not compel a person to commit suicide ordinarily. The Investigator appears to feel that the deceased boy, though he was not personally responsible for the indiscretion committed by his friends on that solemn night, had felt remorse and had not mustered sufficient courage to appear before his mother, who reached the scene shortly after the occurrence. It will be presumptuous on the part of this Court to hazard any opinion whether that circumstance was sufficient to instill remotes in the mind of the child as to persuade him to commit suicide. All other aspects appear to have been checked. The postmortem report does not pointedly indicate any possibility of death due to any other reason. As to whether the deceased could have walked the lesser distance of 3 kms. and reached the Railway track instead of taking the longer route of 5 kms. is again trying to be presumptuous. Very rationale decisions cannot be accepted at such a moment. That by itself does not persuade me to doubt the conclusion of suicide consistently reached by all the three Investigating Officers.

10. The deceased had no animosity against any one who was present at the scene. Even the alleged happenings at the scene do not

indicate that any particular person present there had any such personal animosity or motive against the deceased on account of what had happened on that day. Admittedly the deceased was not one of the boys who peeped into the bedroom of the neighbour. The neighbour also did not have a case that the boy had peeped into his bedroom. Against the over reaction of the said neighbour the deceased had raised some objection and that was all. There is nothing to indicate that the said Joy had gone out of his house after he retired to his house on that night.

11. The petitioner's counsel points out to the Court the haste with which the body was attempted to be disposed of and the questionable conduct of the police jumping over the compound wall of the cemetery to somehow dispose of the body. On this aspect also, the Investigating Officer has revetted his pointed attention. It was a holiday. The body was dismembered. It was getting putrefied. The relatives could not be identified. There was no reason for the police officials to think that the body was of a person of the locality. In their assessment keeping the body for longer period was unnecessary as it was beginning to putrefy. They wanted an early disposal of the body also. The vehicle of the Muringoor

Divine Center was brought. This had aroused suspicion among the local people. There were objections against the disposal of the dead bodies of 8 victims in the locality by Muringoor Divine Center. It is in that context that the body brought in their vehicle invited resistance from the local people. The police could not find the key of the cemetery and to trace the person in charge of the cemetery they are alleged to have jumped over the compound wall. The Investigating Officer, in these circumstances, did not attach any crucial significance in the totality of facts to that anxiety of the police to dispose of the body at an early date and to the conduct of the police jumping over the compound wall to get the cemetery keeper. The Superintendent of Police has also adverted to the fact that there was no attempt by any one to conceal the identity of the deceased and that the petitioner herein himself was able to see the body and identify the cloths without any attempt on the part of the police to avoid such identification.

12. As the father of the deceased child, the agony and trauma of the petitioner is quite understandable. But the conclusion appears to be inevitable that proper investigation has already been conducted and further continuance of the investigation is unnecessary and is unlikely to be

productive. In these circumstances, conscious of the unfortunate plight of the petitioner, I am satisfied that this Original Petition deserves to be dismissed.

13. This Original Petition is accordingly dismissed.

(R. BASANT)
Judge

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